

401 Congress Avenue
Suite 2100
Austin, Texas 78701

512.370.2800 OFFICE
512.370.2850 FAX
winstead.com

Al Axe
direct dial: 512.370.2806
aaxe@winstead.com

December 7, 2009

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Mr. Alec G. Dreyer, Executive Director
The Port of Houston Authority
111 East Loop North
Houston, Texas 77029

Re: San Jacinto River Waste Pits Site (the "Site")

Dear Mr. Dreyer:

We represent McGinnes Industrial Maintenance Corporation ("MIMC") with respect to the above-referenced Site, which is located at the intersection of Interstate Highway 10 and the San Jacinto River, east of the City of Houston. This letter is to inform you that the Site has been identified by the U.S. Environmental Protection Agency ("EPA") as a Superfund site that must undergo an environmental cleanup under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9601, *et. seq.* Enclosed for your convenience is a summary published by the EPA regarding the Site.

According to the Harris County Clerk Land Records, the current owners of record of the Site and adjacent property are listed as Virgil C. McGinnes, Trustee ("VCM") and Big Star Barge & Boat Company, Inc. ("Big Star"). Given the fact that much of the property of VCM and Big Star have become submerged over the years by the San Jacinto River, it is our belief that the Port of Houston Authority ("PHA") may now own portions of the Site. Specifically, under the Act of April 5, 1927, 40th Leg., R.S., ch. 292, 1927 Tex. Gen. Laws 437-38, the State of Texas conveyed to the predecessor of the PHA "all submerged lands lying and being situated under the waters of ... San Jacinto River ... so far up said streams as the State may own same, together with ... all other tidal flats or overflow land adjacent to or appurtenant to the above mentioned streams ... as now or hereafter located."

The EPA has identified MIMC and International Paper Company ("IPC") as potentially responsible parties ("PRPs") for the cleanup of the Site and has issued a Unilateral Administrative Order ("UAO") to MIMC and IPC to conduct a Remedial Investigation/Feasibility Study ("RI/FS") for the Site, a copy of which will be provided upon request. The UAO requires that MIMC and IPC, among other things, use their best efforts to obtain access agreements

The Port of Houston Authority
December 7, 2009
Page 2

from the present owners of property that will have to be accessed to conduct the RI/FS by December 20, 2009.

The EPA has also sent to MIMC and IPC a proposed Administrative Order on Consent ("AOC") to conduct a short term removal action to stabilize the Site. The AOC also contains a requirement that MIMC and IPC use their best efforts to obtain a signed access agreement from the current owners of the Site.

In pursuit of the access required by the UAO and AOC, we would like an opportunity to visit with you to discuss access to the portions of the Site owned by PHA. We have also included for your review and signature an Access Agreement to memorialize your consent to access by MIMC, IPC, and EPA for the purposes stated herein.

In light of the deadline imposed by the EPA's UAO, we request that you contact me at 512-370-2806 or email me at aaxe@winstead.com no later than seven (7) days after receipt of this letter to coordinate a time for us to meet and to ask any questions that you may have regarding this matter. If you wish to also contact someone with the EPA, you may contact either Ms. Barbara Nann at 214-665-2157 or nann.barbara@epa.gov or Mr. Stephen Tzhone at 214-665-8409 or tzhone.stephen@epa.gov.

Thank you for your time. Please feel free to call me if you have any questions regarding this matter.

Very truly yours,

A handwritten signature in black ink that reads "Albert R. Axe". The signature is written in a cursive, flowing style.

Albert R. Axe, Jr.

The Port of Houston Authority
December 7, 2009
Page 3

AA:jtf
Enclosures

cc: Mr. Francis E. Chin
MIMC
1001 Fannin Street, Suite 4000
Houston, Texas 77002

Mr. John F. Cermak, Jr.
Baker Hostetler
12100 Wilshire Boulevard
15th Floor
Los Angeles, CA 90025-7120

Ms. Barbara Nann
U.S. EPA, Region 6
Office of Regional Counsel
Superfund Branch (6RC-S)
1445 Ross Avenue
Dallas, TX 75202-2733

Mr. Stephen Tzhone
U.S. EPA, Region 6
1445 Ross Avenue
Suite 1200
Mail Code: 6SF-RA
Dallas, TX 75202-2733

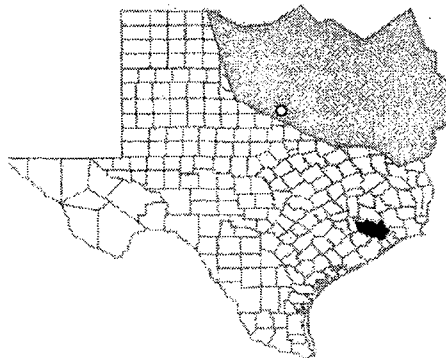
Austin_1 584545v1 48434-1

SAN JACINTO RIVER WASTE PITS

Harris County, Texas

EPA Region 6
EPA ID# TXN000606611
Site ID: 0606611

Contact: Stephen Tzhone, (214) 665-8409
State Congressional District: 2 and 29
Updated: November 2009



Current Status

The EPA issued Special Notice Letters to International Paper Company (IPC) and McGinnes Industrial Maintenance Corporation (MIMC) on July 17, 2009, inviting them to formally negotiate an Administrative Order on Consent (AOC) to conduct a Remedial Investigation and Feasibility Study (RI/FS). Both IPC and MIMC responded to EPA's SNL on September 20, 2009. The EPA is reviewing and evaluating the offer from these Potentially Responsible Parties (PRPs).

In addition, due to the unique location of the site, the EPA, USACE, and TCEQ are working together to come up with watershed management solutions where dredging and/or construction activities may impact the RI/FS, as well as, future site cleanup. As of November 1, 2009, a permits evaluation process is in place for an area of concern around the Site. The public announcement of this process can be found on the following websites:

EPA: www.epa.gov/region6/6sf/texas/san_jacinto/tx_san_jacinto_public_announcement_20091021.pdf

USACE: www.swg.usace.army.mil/pao/Docs/SanJacinto.pdf

TCEQ: www.tceq.state.tx.us/remediation/superfund/epa/sanjacpits

Benefits

The site has been finalized on the National Priorities List.

National Priorities Listing (NPL) History

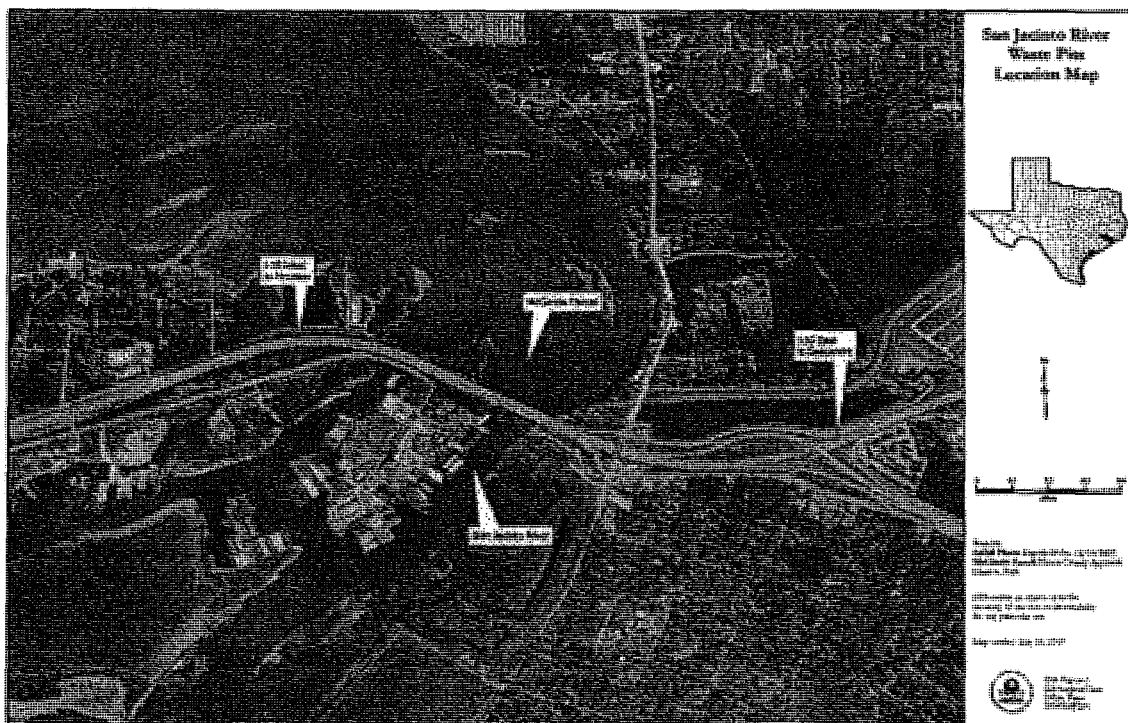
Proposal Date: 9/17/2007 (72 FR 53509)
Final Listing Date: 3/19/2008 (73 FR 14719)

Site Description

Location: The Site is in Harris County in the State of Texas. The Site itself has no specific street address. The Site is comprised of an area of land and an area of the San Jacinto River bottom, i.e., river sediment that is contaminated with certain hazardous materials from released waste paper mill sludge. The Site is located in an area where the Interstate Highway 10 Bridge crosses over the San Jacinto River. The Site is located east of the City of Houston between two unincorporated areas known as Channelview and Highlands.

The Site includes an abandoned 20-acre tract of land (Tract). Harris County Clerk Land Records document that Virgil C. McGinnes Trustee, is this Tract's current owner of record. This Tract is bounded on the south by Interstate Highway 10, on the east by the San Jacinto River main channel, and on the north and west by shallow water off the River's main channel. Virgil C. McGinnes is deceased.

Site Map



Wastes And Volumes

The primary hazardous substances documented at the Site are polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans. Dioxin concentrations as high as 41,300 parts per trillion have been found in soil and sediment samples collected from the Tract's disposal pit areas and from river sediments near the Tract. Sediments contaminated with high levels of dioxin have been found in the San Jacinto River both up-river and down-river from the Tract. The complete nature and extent of the contamination will be delineated during the Remedial Investigation.

Health Considerations

The primary hazardous substances that have been documented at the San Jacinto River Waste Pits site are polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans. Samples collected in the disposal pits and in the San Jacinto River have dioxin concentrations as high as 41,300 parts per trillion. Fish tissue samples have been collected by the Texas Department of Fish and Wildlife, and dioxin has been found in both fish and crab tissue samples above a health based benchmark.

Sediment, water, and tissue samples collected in the vicinity of the impoundments show elevated levels of dioxins. A consumption advisory based on dioxin is in place on this segment of the watershed. The current advisory recommends that adults eat no more than one meal per month caught from the advisory area, and suggests that women of childbearing age and children not consume any blue crabs or fish from the advisory area.

Record of Decision

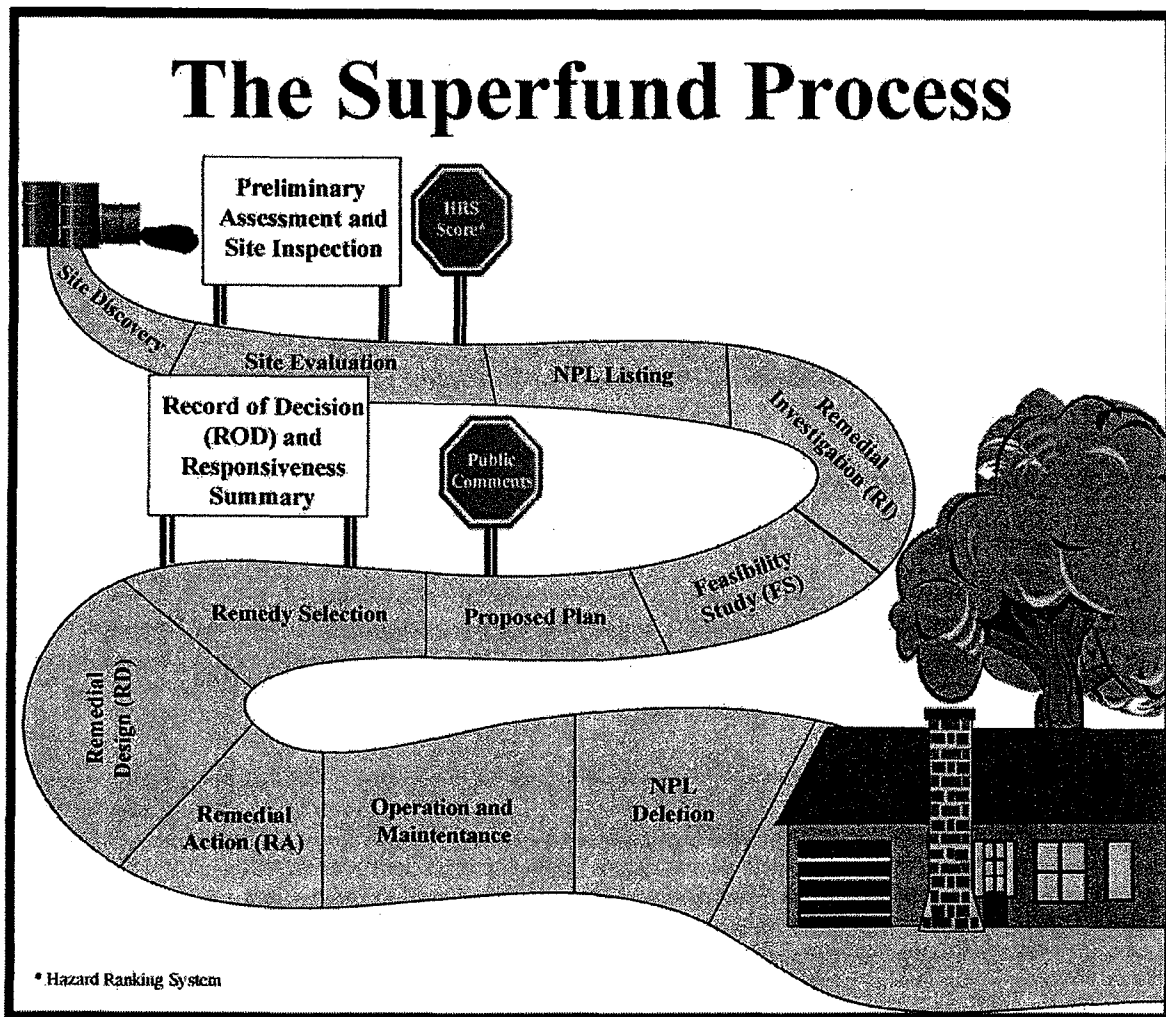
A Record of Decision will be completed during the Remedy Selection.

Operations and Maintenance

Operations and Maintenance activities will be completed after the Remedial Action.

Community Involvement

A formal meeting to solicit public input will be held during the Proposed Plan.



Site Contacts

EPA Remedial Project Manager:	Stephen Tzhone	(214) 665-8409
EPA Site Attorney:	Barbara Nann	(214) 665-2157
EPA Regional Public Liaison:	Donn Walters	(214) 665-6483
TCEQ Project Manager:	Luda Voskov	(512) 239-6368

Site Information Repository:	Pasadena Public Library 1201 Jeff Ginn Memorial Dr. Pasadena, TX 77506	(713) 477-0276
------------------------------	--	----------------

EPA Toll Free Region 6 Superfund Information Line:	(800) 533-3508
--	----------------

EPA Region 6 Freedom of Information Act Online Request Form:
<http://www.epa.gov/region6/6md/foia/foiaform.htm>

EPA Region 6 Contact Us Online Request Form:
<http://www.epa.gov/region6/r6coment.htm>

ACCESS AGREEMENT

This Access Agreement ("Agreement") is made and entered into as of the ____ day of December, 2009 by and among McGinnes Industrial Maintenance Corporation and International Paper Company (collectively, the "Grantees"), and The Port of Houston Authority ("Owner").

RECITALS

WHEREAS Owner owns certain property (the "PHA Property") located near the intersection of Interstate Highway 10 and the San Jacinto River, east of the City of Houston, and adjacent to and including portions of the property more particularly described on Exhibit A attached hereto and incorporated herein (the "Property").

WHEREAS the U.S. Environmental Protection Agency ("EPA") issued a Unilateral Administrative Order ("UAO") to Grantees for Remedial Investigation/Feasibility Study ("RI/FS") regarding property including the Property and portions of the PHA Property on November 20, 2009.

WHEREAS, EPA also issued to Grantees a proposed Administrative Order on Consent ("AOC") on November 20, 2009 requiring Grantees to conduct a short-term removal action to stabilize the Property and portions of the PHA Property.

WHEREAS Grantees and EPA desire access, and Owner desires to allow Grantees and EPA and their employees, contractors, representatives and agents access to the PHA Property pursuant to the terms and conditions set forth below as a means of implementing the Environmental Work, as defined herein.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties hereto agree as follows:

1. Owner does hereby give and grant Grantees and their consultants, contractors, agents, and employees, as well as the authorized representatives of the EPA and its contractors and oversight officials, the right to enter upon the PHA Property for the purposes of performing environmental investigations and other response activities at the PHA Property (collectively referred to as "Environmental Work") that are approved by EPA in accordance with the UAO, AOC, and other orders entered into between the Grantees and EPA.

2. At all reasonable times, EPA and its authorized representatives shall have the authority to enter and freely move about the PHA Property for the purposes of inspecting conditions, activities, the results of activities, records, operating logs, and contracts related to the PHA Property or Grantees and their contractor(s) pursuant to the UAO; reviewing the progress of the Grantees in carrying out the terms of the UAO; conducting tests as EPA or its authorized representatives deem necessary; using a camera, sound recording device or other documentary type equipment; and verifying the data submitted to EPA by Grantees. All parties with access to the PHA Property under this paragraph shall comply with all approved health and safety plans.

3. Owner shall take into account the Environmental Work in Owner's use of the PHA Property, and avoid unreasonable interference with the same. Owner shall not relocate, disturb, damage, or interfere with the wells, equipment or other fixtures or personalty used in the Environmental Work without obtaining Grantees' or EPA's prior written consent. Owner shall be responsible for any cost or expense to abandon, relocate, repair, modify, or replace such wells, equipment, or other fixtures or personalty resulting from the acts, omissions, or requests of Owner or Owner's tenants, contractors, licensees, invitees, or employees (exclusive of Grantees or EPA).

4. This Agreement shall terminate ninety (90) days after the date the EPA issues written evidence that no further investigation, remediation or monitoring is necessary at the PHA Property.

5. Grantees are not EPA's representatives with respect to liability associated with PHA Property activities.

6. Owner agrees to indemnify, defend and hold Grantees harmless from and against any claims, liabilities, damages, losses, costs, suits, expenses, demands, judgments, fines, penalties, or causes of action (collectively "Claims", individually "Claim") suffered or incurred by Grantees arising out of a Claim made, or action or proceeding initiated, by a third party, against Grantees wherein such Claim(s) are in relation to any entry, use of, or activity conducted by the Owner or its employees, contractors, representatives and agents on, under or adjacent to the Property.

7. Notwithstanding anything contained herein to the contrary, in no event shall this Agreement be deemed to create an obligation of Grantees to Owner to perform any of the Environmental Work.

8. No provision of this Agreement nor any action under or by reason of this Agreement shall in any action, proceeding or litigation operate or be construed as an admission by any party of any violation of law or regulation, any liability, fault, or past or present wrongdoing, or any breach of duty at any time.

9. Nothing in this Agreement shall waive or prejudice any right, claim, cause of action or defenses that any party may otherwise have under the law.

10. If any provision of this Agreement is held to be invalid or unenforceable, that provision may be severed and the remaining provisions shall remain in full force and effect.

11. Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts as reasonably necessary or appropriate to perform the material terms, provisions, and conditions of this Agreement and all transactions contemplated by this Agreement.

12. This Agreement may be executed in counterparts with the same force and effect as if executed in one complete document and each signed counterpart shall be deemed an original hereof. Faxed or e-mailed "portable document file" (i.e., pdf) signature shall be of the same force and effect as original signatures.

13. Any notice required to be provided hereunder shall be in writing and shall be deemed given when hand-delivered, sent postage prepaid by registered or certified mail, return receipt requested, or by e-mail, to the parties for whom the notice is intended at the mailing and email addresses appearing on the signature page of this Agreement. Any party may by written notice change the address to which notices may be sent.

14. This Agreement may be modified only by the written subsequent agreement of the parties.

15. The provisions and covenants contained herein shall inure to, and be binding upon the successors and permitted assignees of the parties hereto. Owner may assign its respective rights, privileges, duties and obligations hereunder with written notice to Grantees. Nothing herein shall be construed to restrict in any manner Owner's rights to sell, pledge or alienate the PHA Property. Owner shall cause any party who acquires or leases the PHA Property from Owner to enter into an Agreement with Grantees in form and substance substantially similar to this Agreement, or shall assign its rights, duties, privileges and obligations under this Agreement to such acquiror or tenant of the PHA Property.

16. This Agreement supersedes all previous agreements between the parties and constitutes the entire understanding of the parties relative to the subject matter hereof.

17. All notifications made pursuant to this Access Agreement shall be directed:

as to Owner: The Port of Houston Authority
111 East Loop North
Houston, Texas 77029
Attn: _____

as to Grantees: Waste Management
1000 Parkwood Circle, Suite 700
Atlanta, Georgia 30339
Attn: March Smith

International Paper Company
6400 Poplar Avenue
Memphis, Tennessee 38197
Attn: Steve Ginski

with copy to: Winstead PC
401 Congress Avenue, Suite 2100
Austin, Texas 78701
Attn: Albert R. Axe, Jr.

Baker & Hostetler, LLP
12100 Wilshire Boulevard, 15th Floor
Los Angeles, California 90025
Attn: John Cermak

18. This Agreement shall be interpreted and enforced according to the laws of the State of Texas.

19. This Agreement may be executed in multiple originals.

20. Copies of this Agreement shall be provided to EPA by Grantees upon request prior to Grantees' initiation of field activities.

21. The foregoing provisions are agreed to, as evidenced by the signatures of the authorized representatives of or attorneys for each Party as set forth below.

IN TESTIMONY WHEREOF, this instrument is executed effective as of the date first above written.

GRANTEES

McGinnes Industrial Maintenance Corporation

By: _____
Name: _____
Title: _____

OWNER

The Port of Houston Authority

By: _____
Name: _____
Title: _____

International Paper Company

By: _____
Name: _____
Title: _____

EXHIBIT "A"

To be added following discussion between the Parties